

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of
Request for Extension of Time to
Construct Digital Facilities
WALB-DT, Albany, Georgia
File No. BEPCDT-20020301ADP
ID No. 70713

MEMORANDUM OPINION AND ORDER

Adopted: September 10, 2002

Released: September 16, 2002

By the Chief, Media Bureau:

1. The Media Bureau (the "Bureau") has before it a petition filed by LibCo, Inc. ("LibCo") seeking reconsideration of the Bureau's June 3, 2002, letter denying its request for an extension of time to construct the digital facilities for WALB-DT and admonishing LibCo for failing to meet the May 1, 2002, construction deadline for DTV facilities. For the reasons stated below, we deny the petition.

2. In its petition, LibCo argues that the Bureau erred in concluding that LibCo's showing contained no reasonable plan or projected date by which any DTV facility might be constructed or placed in operation. LibCo contends that it had specific objectives and plans to implement its DTV conversion, which it claims to have outlined and supported in its request for extension. Review of its petition and extension request casts doubt on the cogency of those plans. LibCo admits that it has known since 1997 that its tower had were several unresolved technical issues, including guy wires that touched the guy wires of a neighboring tower. LibCo states that it initiated discussions with LeBlanc, the contractor that originally constructed the tower, which did its own studies confirming the problem. LibCo further states that it has not been able to compel LeBlanc to make the needed repairs and that litigation appears likely. Due to the problems with its tower, LibCo states that it has decided to construct a low-power DTV facility. As of the date of LibCo's petition, however, it had not yet ordered the necessary transmitter, making its projected operational date questionable. Although LibCo does include a "Construction Report and Action Plan" in its petition, elsewhere in its petition it states that "under present circumstances, the specification of a detailed timeline would be merely guesswork." Requests for extensions of time to construct a facility cannot be grounded in guesswork, but must be supported by reasonable projections which rely on known facts. Based on the representations in LibCo's petition and its extension request, therefore, the Bureau's original conclusions were justified.

3. ACCORDINGLY, IT IS ORDERED, THAT the petition filed by LibCo, Inc. seeking reconsideration of the Bureau's June 3, 2002, letter denying its request for an extension of time to construct the digital facilities for WALB-DT and admonishing LibCo for failing to meet the May 1, 2002, construction deadline for DTV facilities IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief, Media Bureau